

necessarily involves the committing a public nuisance. The defendants contracted with A. to fill in earth over a drain, which was being made for them across a portion of the highway from their house to the common sewer. A., after having filled it in, left the earth so heaped above the level of the highway, as to constitute a public nuisance, whereby the plaintiff in driving along the road sustained personal injury. A few days previous to the accident, and before the work was completed, one of the defendants had seen the earth so heaped over a portion of the drain, but beyond this, there was no evidence that either defendant had interfered with or exercised any control over the work: *Held*, that there was no evidence to go to the jury of the defendants' liability. *Peachy vs. Rowland and another*, 22 Law J. (N. S.) C. B. 81.

Master and Servant—Liability.—Where an attorney's clerk had fraudulently simulated the court seal upon a writ of summons, the Court set aside the writ and all proceedings thereon, and ordered the attorney, though blameless personally, to pay the costs. *Dunkley vs. Farris*, 11 C. B. 457.

NOTICES OF NEW BOOKS.

A complete Practical Treatise on Criminal Procedure, Pleading and Evidence, in indictable cases; with minute directions and forms for every criminal case that can arise, either at common law, under the English statutes, or under the statutes of the different states; comprising the "New System of Criminal Procedure, Pleading and Evidence," by Mr. Archbold; and also the twelfth and last London Edition of "Archbold's Pleading and Evidence in Criminal Cases," by Messrs. Jervis and Welsby; to which are added comprehensive notes on each particular offence, the accusation and complaint, process, arrest and examination, commitment, bail, indictment, trial, conviction, judgment, appeal, new trial and execution. Also, an Introductory Essay on Crimes and Punishment. By Thomas W. Waterman, Counsellor at Law. Sixth edition, in three volumes. New York. Banks, Gould & Co., 144 Nassau street. Albany: Gould, Banks & Co., 475 Broadway. 1853.

A full, accurate and well digested treatise upon criminal law, as now understood and administered, has for a long time been greatly needed. We have had laid before us three volumes by Mr. Waterman, to which is prefixed the extended title page at the head of this article. After a somewhat careful perusal, we have arrived at the conclusion that the work itself is justly, entitled to just such a title page. If so, it hardly needs commendation at our hands. The treatise of Mr. Archbold upon Pleadings and Evidence in Criminal Cases, has been so long and so favorably known to the American bar, that to speak of it in terms of approbation,

would be but the work of supererogation. The fact that it has run through six editions within a comparatively short space of time, is evidence that its intrinsic merit and excellence have been appreciated by the legal profession. Since its first publication, it has been extensively cited with approbation both in England and America, and has very deservedly elicited the commendation of being "one of the most succinct and accurate treatises upon criminal law extant." It was, however, a purely English work. Its references were to English authorities. Some of the cases cited have not been followed in this country, under our more enlightened and humane system; others have been doubted or overruled by our judicial tribunals. Although it had a very extensive circulation, and has ever been highly valued as a book of reference, yet, the bench and the bar of the United States have long felt the necessity of having it Americanized. This necessity has been fully and ably met in this edition of Mr. Waterman. Under his hands, it has been not only thoroughly Americanized, but admirably *stateized*, if we may coin a word to express our meaning. Henceforth its practical utility cannot be limited to any section of the United States; for his numerous and extended notes have in fact made it a most complete compendium of the criminal law of the respective states. The notes are, many of them, quite extended, and their value greatly enhanced by the fact that they are so full as to give, in a condensed form, an accurate synopsis of each case cited. To the professional man, who has not access to an extensive library, the value of those notes is incalculable; for, to all practical purposes they may be consulted with safety, without a resort to the cases cited in the original books of reports. Nor are those notes confined exclusively to American cases; but they also embrace the modern decisions in criminal cases in England. Many subjects which are only touched by Mr. Archbold in the text in very general terms, have been amplified and illustrated in the notes: whilst many others, not even alluded to in the text, have been introduced and fully and accurately digested in the notes.

Mr. Waterman has also so largely drawn upon the previous labors of the elementary writers on Criminal Law in England, that much of what they have done has been, so to speak, fused into his notes to such a degree as to supersede, to a great extent, the necessity of a resort to them by the American bar. He has also annotated from the civil law, that great perennial spring in the field of jurisprudence, which should ever be resorted to by the legal student, and which will be by all those who desire a thorough knowledge of the law as a science.

The magnitude of Mr. Waterman's labors are evidenced by the fact, that whilst the text contains but 630 pages, in one volume, his edition, including the notes, is swelled to three large volumes containing 2854 pages, with a full and complete index to the text and to the American notes. We concede that prolixity is not a sure evidence of merit, but frequently the reverse, still we think that this fault in this edition, if fault it be, is more than counterbalanced by the great mass of matter succinctly stated and accurately digested. Utility greatly preponderates over inutility.

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